



Comments by CONNECT

**Submitted to the Federal Communications Commission
related to the proposed T-Mobile license transfer to AT&T
WT Docket No. 11-65
May 29, 2011**

Summary:

CONNECT's mission is to propel creative ideas and emerging technologies to the marketplace by connecting entrepreneurs with the comprehensive resources they need to sustain viability and business vibrancy. That mission should be enhanced by the proposed merger of AT&T and T-Mobile. Of significant concern to start-up tech innovation is the continued and critical need for additional spectrum. Because spectrum incentive auctions are unlikely to occur in the short-term and because the merger will result in more rapid deployment of next generation LTE services to more Americans, there is a high probability that more innovators in more areas of the country will have access to wireless services. Such expanded access will most likely result in new start-up companies, new jobs and new technological innovations across various sectors including wireless healthcare, education, IT, cleantech, and life sciences.

Although concerns regarding incumbent consolidation warrant marginal merit, the more appropriate analysis for the Federal Communications Commission (hereafter Commission) should focus on the fact that the wireless industry confounds traditional anti-trust considerations in both pricing and competition. Contrary to expectations, the industry incumbents continue to practice price discipline in the face of the various plans and packages offered by national and regional competitors. Additionally, competition in the industry continues to be vibrant and innovative, forcing market leaders to stay dynamic and not static or repressive.

Thus, on balance, the merger not only appears to benefit innovation, but is also highly likely to enhance consumer choice and access to wireless services.



Introduction:

CONNECT is a nonprofit organization, birthed out of the University of California—San Diego, that is dedicated to creating and sustaining the growth of innovative technology and related businesses. Since 1985, CONNECT has assisted in the formation and development of over 2,000 companies and is widely regarded as one of the world's most successful regional programs linking inventors and entrepreneurs with the business, legal and financing resources they need for success. CONNECT focuses on research institution support, business creation and development, entrepreneurial learning, access to capital, protection of intellectual property, public policy advocacy, awards, recognition and networking. More than 40 countries and regions have adopted the CONNECT model, including New York City, the U.K, Sweden, Norway, Denmark, Australia and India, while several Latin and South America city/regions are likely to adopt the CONNECT model in 2011/2012.¹

CONNECT is the recipient of the 2010 Innovation in Economic Development Award in the "Innovation in Regional Innovation Clusters" category presented by the U.S. Department of Commerce's Economic Development Administration.

I. The ever-growing connection between wireless service and innovation requires increased spectrum. In the face of legal and regulatory uncertainty as to when and how more spectrum will become available, AT&T and T-Mobile provide start-up businesses and innovators a new opportunity to access advanced wireless service which is highly likely to result in new start-up companies, new jobs, and new technological innovations.

Just as canals and highways provided the pathways that built the American economic expansion of the past, the new generation of American economic expansion depends on the pathways of broadband and wireless access. However, there is no

¹ To learn more, go to www.connect.org/about/



question that the U.S. is rapidly hurtling into a spectrum crunch which threatens to debilitate the current wireless innovation explosion.

CONNECT strongly supports Congressional action on spectrum incentive auctions to free up much needed spectrum for future deployment. Nevertheless, the reality is that such auctions are not in the immediate future for Congressional action. Even if such Congressional action were imminent, such action would necessarily be followed by other regulatory procedures further delaying the operational access of service providers to new spectrum and related service delivery to consumers. Thus, in the face of spectrum continuing to be bottled up and unavailable, AT&T and T-Mobile have discovered a market-driven solution to the challenge of spectrum access.

This mutually-beneficial and market-driven solution has the capacity to improve consumer access to wireless services to as many as 55 million Americans. The prospect for bringing 55 million Americans online with new LTE service provides a significant opportunity for tech innovation to expand as those Americans explore their own creative ability to start-up new businesses and chase the American dream.

Furthermore, the merger allows the delivery of LTE service to new geographic segments of the U.S. in a host of states. Populations forced to consider leaving Rural America because of economic pressures, will now be able to retain their lifestyles as they develop their own viable economic solutions and opportunities. Thus, states with significant rural populations could see a renaissance in their rural communities as new innovation ecosystems spring up because of LTE's advanced speed and capacity capabilities.

It is hard to imagine how the Commission can quantify the innovative and entrepreneurial potential that lies latent in America's rural regions and minority populations that will now have access to next generation LTE service, putting them rapidly on par with their urban counterparts.



II. The wireless telecom industry continues to show dynamic competition and innovation which is unlikely to change with three major incumbents instead of four, thus ensuring that consumers will continue to enjoy price, product, and service choice.

In reviewing the proposed merger, Commission regulators should first consider the unique market factors that have prevented the two major incumbents from acting according to traditional anti-trust expectations. Where the market position of Verizon and AT&T indicates that they should be raising prices and leveraging their power to block competition, the exact opposite is occurring.

Various reports, including reports from the Department of Labor's Bureau of Labor Statistics, reveal that industry prices generally, and for AT&T specifically, are dropping and not rising. Additionally, vibrant competition in service packages and bundles continue to provide consumers multiple choices as to how to structure their wireless communication experiences and how much to pay for those experiences.

The fact that Verizon and AT&T have been forced to retain price discipline while also adapting their package offerings, suggests that the wireless industry presents anti-trust scholars with a new and unique model for competitive behavior from market leaders. Thus, the consideration that the market will constrict from four to three major players must be tempered by the industry and market factors that pressure the market leaders to behave in unconventional, pro-consumer ways.

Regulators should also consider that T-Mobile's role as the fourth major player in the wireless industry was not sustainable over the long-term which was properly recognized by its corporate directors leading to their efforts to put the company on the market. After two other suitors turned out to be incompatible, AT&T stepped in as a viable suitor that had compatible technology allowing AT&T to compete in next generation LTE service delivery to more Americans. In fact, the evidence indicates that AT&T's motivation in purchasing T-Mobile was not the elimination of a competitor, but the spectral efficiencies it would gain in delivering LTE service. These new spectral



efficiencies provide AT&T a critical and timely upgrade in its capacity to stay competitive against the market leader, Verizon, which further enhances competition in the industry.

Conclusion:

On balance, the evidence suggests that AT&T's ability to deliver next generation LTE wireless services to more Americans in more regions of the country will expand opportunities for entrepreneurship and innovation which is at the heart of CONNECT's mission. As the American economy continues to sputter, Congressional leaders and regulators should not overlook the start-up and small business benefits that are likely to be gained by the speed and capacity benefits LTE provides.

Additionally, T-Mobile's market-driven decision that AT&T is its best available suitor, and AT&T's spectrum-driven decision to acquire T-Mobile, should be given deference since the market evidence points to the result of more consumer choice and increased consumer access to wireless service.

Respectfully submitted,

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